

MANDATE
United States Court of Appeals
For the First Circuit

USDC/MA
Ponsor, M.

No. 06-1121

UNITED STATES,

Appellee,

v.

ROBERT KNOWLES,

Defendant, Appellant.

Before

Torruella, Lynch and Lipez,
Circuit Judges.

JUDGMENT

Entered: November 15, 2006

Appellant makes three challenges to his sentence, all of which we reject. First, prior convictions can be found by the court, under the preponderance of the evidence standard. See United States v. Ivery, 427 F.3d 69, 74 (1st Cir. 2006). Second, whether the prior convictions should be considered "violent" offenses for purposes of the armed career criminal act is a question of law and therefore a proper one for the district court. See United States v. Shepard, 544 U.S. 13 (2005). Finally, one of the challenged predicate offenses was for "escape," another was for attempted escape. Every circuit to address the question has held escape to be a violent felony. See, e.g., United States v. Childs, 403 F.3d 970 (8th Cir. 2005) (citing other Courts of Appeals and holding "walkaway" escape a violent felony). Cf. United States v. Winn, 364 F.3d 7, 11 (1st Cir. 2004), (non-violent felony escape considered crime of violence for purposes of career offender guideline enhancement).

The government's motion for summary affirmance is granted.

The judgment is affirmed. See 1st C. R. 27(c).

**Certified and Issued as Mandate
under Fed. R. App. P. 41.**

Richard Cushing Donovan, Clerk

George R. Kite
Deputy Clerk

Date: 12/6/06

By the Court:
Richard Cushing Donovan, Clerk.

MARGARET CARTER

By: _____
Chief Deputy Clerk.

[cc: Alan J. Black, Esq., Paul Hart Smyth, AUSA,
Dina Michael Chaitowitz, AUSA, Robert Knowles]